

BY-LAWS  
OF  
THE GARDNER PLANNING COMMISSION

**ARTICLE ONE**

Creation

**SECTION ONE:** Name. There is hereby established by the City Code of Gardner, Kansas, Chapter 16, Article 18, a City Planning Commission to be named THE GARDNER PLANNING COMMISSION. (Hereinafter sometimes referred to as "Planning Commission".)

**SECTION TWO:** Membership. The Planning Commission membership shall comply with the Gardner Code of Ordinances.

**ARTICLE TWO**

Purpose

**SECTION ONE:** By-Laws. The purpose of these By-Laws is to establish rules for the internal organization and procedures of operation of the Planning Commission and for compliance with K.S.A. 12-701 et seq.

**SECTION TWO:** Commission. The function, powers, and duties of the Planning Commission are as authorized by State Law, K.S.A. 12-701 et seq., and by the existing joint Ordinance/Resolutions establishing the Planning Commission. The Planning Commission adopts its own rules and policies for procedure, consistent with its powers.

**ARTICLE THREE**

Organization

**SECTION ONE:** Officers. The officers of the Commission shall be a Chairman, Vice Chairman, and Secretary. The Chairman and Vice Chairman shall be elected by the Planning Commission at its regular meeting in May of each year. The term of office shall be one (1) year.

**SECTION TWO:** Chairman. The Chairman shall preside at all meetings of the Planning Commission. At his discretion, a Chairman may call special meetings and he may also relinquish the Chair to the Vice Chairman or other specific member. The Chairman shall appoint all committees. The Chairman shall perform all of the duties assigned to his office by law and by the City Governing Body, and shall have such usual powers of supervision and management as pertain to the office of Chairman. If the Chairmanship becomes

vacant for any reason, the Vice Chairman shall succeed to the Chairmanship for the remainder of the term.

**SECTION THREE:** Vice Chairman. The Vice Chairman shall act as Chairman in the absence of the Chairman or disability of the Chairman. In the event the office of Chairman becomes vacant, the Vice Chairman shall succeed to that office for the unexpired term and the Planning Commission shall select a new Vice Chairman for the unexpired term.

**SECTION FOUR:** Secretary. The City Administrator or his/her designee serves as the Secretary of the Planning Commission. This office is not a member of the Planning Commission. The Secretary shall send notices of all regular and special meetings to all members of the Commission. In addition, the Secretary shall have, under the Chairman, charge of the office of the Planning Commission and all books, papers, and records thereof, and attend to all correspondence of the Planning Commission.

**SECTION FIVE:** Attendance. Attendance shall be as prescribed in the Gardner Code of Ordinances.

## **ARTICLE FOUR**

### Meetings

**SECTION ONE:** Regular Meetings. Regular meetings of the Planning Commission shall be set annually and adopted by Resolution and a current schedule available from the Secretary of the Planning Commission. Unless otherwise provided, the regular meetings shall be on the second and fourth Mondays of the month at 7:00 p.m. at Gardner City Hall. Meetings shall adjourn by 10:00 p.m., unless extended upon motion of a majority of the Planning Commission members present. Items remaining on the agenda at the end of a meeting may be continued by the Planning Commission until the next regular meeting.

**SECTION TWO:** Special Meetings. Special meetings of the Planning Commission shall be called by the Chairman, or in his absence, by the Vice Chairman, and held at any time or place fixed in the notice. Only items specified in the notice may be acted upon at the Special meeting. Notice may be made by telephone or mail. The Chairman or, in his absence, the Vice Chairman shall call a special meeting of the Commission at the request, of a majority of the appointed members of the Commission; and if the Chairman or, in his absence, the Vice Chairman shall fail to comply with such a request, said member so requesting, may call such meeting provided they all sign the notice. The Planning Commission shall provide at least seven (7) calendar days notice to each member prior to any special meeting unless the notice requirement is waived by all members.

**SECTION THREE:** Quorum. A majority of the membership of the Planning Commission shall be necessary to constitute a quorum for the transaction of business and the taking of official action.

1. A favorable vote of four (4) members shall be necessary for the adoption of:
  - A. a Comprehensive Plan, a Capital Improvement Plan, or addition of any part thereof;
  - B. any amendments or changes in the By-Laws of the Commission;
  - C. the election of officers of the Commission;
  - D. to set time and place of regular meetings;
  - E. zoning text amendments; and
  - F. subdivision regulations.
2. A favorable vote of a majority of members of the Planning Commission present and voting shall be necessary for the adoption of:
  - A. zoning petitions;
  - B. special use permits; and
  - C. all other actions.

**SECTION FOUR: Agenda.** Agendas for all regular meetings shall be available at the Community Development Department office at least three (3) days prior to the meetings. Deadlines for filing for placement on the Planning Commission's Agenda shall be in accordance with deadlines established by Resolutions and shall be set by the Community Development Director.

## **ARTICLE FIVE**

### **Conduct of Meetings**

**SECTION ONE: Parliamentary Procedure.** The Roberts' Rules of Order (Latest Edition) shall be followed at all meetings of the Planning Commission so long as they are not inconsistent with the Laws of the State of Kansas, the Ordinances of the City of Gardner, or the provisions of these By-Laws.

**SECTION TWO: Order of Business.**

- A. Order; i.e., Roll Call, Approval of Minutes, Agenda Amendments, Consent Agenda, Agenda Items, Old Business, New Business, Reports, and Adjournment.
- B. The Commission may amend the Order of the Agenda by a majority vote of the members present and voting.
- C. The Commission may consider items not on the Agenda if a majority of the Commission members vote approval to do so.

**SECTION THREE: Staff Reports.** Staff reports on all agenda items shall be prepared and provided to the Commission members at least three (3) days prior to the scheduled meeting.

**SECTION FOUR: Continuances.** Any item may be continued upon request of the applicant or recommendation by staff or a Commission member. The Commission may continue items requiring a public hearing to a date certain. Other items may be tabled and recalled at the request of the applicant, staff, or Commission. A tabled item which fails to be recalled after six (6) months shall be considered withdrawn. The applicant is entitled to one (1) continuance as a

matter of right, and subsequent continuances only upon approval of a majority of the Planning Commission or the applicant must withdraw the item.

**SECTION FIVE:** Appearance Before the Commission. Applicants or their representatives may appear before the Commission to present their views on an agenda item. If required by law, the Commission will hold a public hearing and entertain public comment. If a public hearing is not required then the Commission may at its discretion, entertain public comment from members of the community or individuals or their representatives who believe they will be affected by the Commission's action. Whenever a person or entity appears before the Planning Commission, the Chairman may, at his discretion, prescribe procedures for registration of speakers and require that each person come forth and state:

- A. Name;
- B. Address; and
- C. Person or organization that he represents or that he is speaking as an individual.

The Chairman may also reasonably limit the length of all persons' presentation or discussion to ensure the orderly conduct of Commission business; however, the decision of the Chairman may be overridden by a majority of the Commission present.

**SECTION SIX:** Incomplete Submittals. The Commission will not hear items that fail to meet City Ordinance submission requirements.

**SECTION SEVEN:** Commission Action. The Commission shall take action on each item presented at the conclusion of discussion on the item. Voting shall be by voice ballot on each item. If there is a dissenting vote, the Chairman shall call for a roll call vote. Voting shall be tallied by the Secretary. All members, including the Chairman, shall have a vote and shall vote when present except that any member shall automatically disqualify himself from voting on any decision in which he may have a conflict of interest as discussed in Article Six, Section One. If the item upon which the Planning Commission action is taken remanded for reconsideration to the Commission by the Governing Body, it shall be considered at the next regular meeting of the Planning Commission after notice of the remand is received. If no action is taken on the remanded item at this meeting, the same recommendation will be deemed made and will be sent back to the Governing Body.

**SECTION EIGHT:** Record of Proceedings. The Secretary shall record the minutes of each meeting as a matter of public record and shall present such minutes to the Planning Commission for approval.

**SECTION NINE:** Motions. Following the closing of testimony, a motion may be made to recommend approval or denial of the proposition, to continue the proposition to a later date if a public hearing has occurred, or to table the item. Any stipulations relative to plans, development procedures, etc., should be listed following the motion to approve. Upon receiving a second, the motion may be discussed and, upon the call for question or at the discretion of the Chairman, brought to a vote. A motion to amend, if necessary, must be voted on first.

Then the main motion would be voted on in its amended state. Motions shall require an affirmative vote of the majority of the necessary quorum for passage. The Chairman may not make or second motions, but he may vote on any and all motions to come before the Commission.

**SECTION TEN:** Abstentions. As discussed in Article Six, Section One, if a Commissioner has a conflict of interest he must vacate his chair and disqualify himself from voting on the item. If after considering an item a Commissioner merely wishes to abstain from voting, his abstention shall be treated as a vote with the majority. If there is a tie vote, an abstention shall be considered a denial.

**SECTION ELEVEN:** Failure to Recommend. If there is a tie vote of the Planning Commission on any item on which the Commission sits as a recommending body, such as a rezoning or text amendment, such a tie vote is considered a failure to recommend and goes to the Governing Body with no recommendation. If the tie vote occurs on action which the Commission sits as a final decision maker, a tie vote defeats the motion. If no subsequent motion is made and approved after the tie vote, the request is deemed denied.

**SECTION TWELVE:** Revote on Same Item. If for any reason a Commissioner wishes to revote on an item previously considered during the current meeting agenda and voted upon by the Planning Commission, the Chairman shall call for a revote on the item.

**SECTION THIRTEEN:** Cross Communication. Cross communication between those in attendance of Planning Commission meetings is prohibited. Questions between opposing parties must be directed to the Chair. Similarly, cross conversation among members should also be directed to the Chair.

**SECTION FOURTEEN:** Applicant Not in Attendance. In case an applicant or his agent is not in attendance when his item is called, the item shall be set over to the end of the agenda. If at the time the item is called again the applicant is still not present, the Commission may continue the case, or may approve or deny the proposition as it sees fit.

## **ARTICLE SIX**

### Miscellaneous

**SECTION ONE:** Conflict of Interest. When a member of the Commission feels he may have a conflict of interest on a particular case before the Commission, he may so state for the record and vacate his chair. A member so vacating his chair should not participate in the hearing or discussion, except at the invitation of the Commission, and shall not vote on the issue. If the vacation of a member due to conflict of interest will eliminate a quorum, then the Planning Commission shall continue the hearing to the next regular meeting.

**SECTION TWO:** Suspension of Rules. Any of these By-Laws may be suspended for stated reasons by affirmative vote of a majority of those members present at a special or regular meeting with a quorum present.

**SECTION THREE:** Amendment of Rules. These By-Laws may be amended or repealed for stated reasons by affirmative vote of a majority of the membership.

APPROVED at the Planning Commission meeting on the 28th day of November, 2005.